

2013 DRAFTING REQUEST

Bill

Received:	11/14/2012	Received By:	phurley
Wanted:	As time permits	Same as LRB:	
For:	André Jacque (608) 266-9870	By/Representing:	
May Contact:		Drafter:	chanaman
Subject:	Courts - evidence Criminal Law - domestic abuse	Addl. Drafters:	
		Extra Copies:	

Submit via email: **YES**
 Requester's email: **Rep.Jacque@legis.wisconsin.gov**
 Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Prior acts evidence admissible

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	chanaman 11/14/2012	evinz 11/15/2012		_____			
/1	chanaman 1/15/2013	evinz 1/15/2013	jfrantze 1/15/2013	_____	lparisi 11/15/2012		
/2	chanaman 4/1/2013	evinz 4/2/2013	jfrantze 4/2/2013	_____	sbasford 1/15/2013		
/3				_____	srose	lparisi	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
				<u>4/2/2013</u>	4/2/2013	4/8/2013	

FE Sent For:

→ Not
Needed

<END>

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12 ev 1/15/13 Jb 1/15

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/P1	chanaman	LRB-0476/1 eev 11/15/12		Ph 11/15			

FE Sent For:

<END>

Hurley, Peggy

From: Rep.Jacque
Sent: Tuesday, November 13, 2012 4:18 PM
To: Hurley, Peggy
Subject: FW: DV Prior Acts Law

Hi Peggy,

Could you please draft a bill for me to mirror the Minnesota statute described below (regarding admissibility of evidence of previous incidents of domestic violence)? I am working with Rep. richards on this issue, so he may have a very similar drafting request, but I'd like a separate LRB # to work off of later if necessary. I will be sending a request a little later for a similar bill based off of a Washington statute that requires reports to be filed by law enforcement for domestic disputes where an officer responds but no arrest is made.

Thanks!
André

From: Kenney, Pat - DDA [<mailto:Pat.Kenney@da.wi.gov>]
Sent: Monday, November 12, 2012 10:13 AM
To: Rep.Jacque
Subject: DV Prior Acts Law

Rep. Jacque, thank you for talking the time to discuss this important issue with me this morning. The Minnesota Statute is copied below. The email is from one of our assistants who was a prosecutor in Minnesota before coming to our office. It also provides a nice example of how the law would work in a practical situation. The issue of domestic violence, as well as violence against women generally, is likely to be an important topic in the next session. Please let me know if there is anything I can do to assist in these matters. Thanks again, Deputy District Attorney Patrick Kenney

From: Schmidt, Molly
Sent: Monday, October 29, 2012 1:18 PM
To: Kenney, Pat - DDA; Tempelis, Peter
Subject: DV Prior Acts Law

Hi Pat and Peter,

I was just discussing last week with Meghan the DV Evidence law they have in MN. I don't know if you two are familiar with the law, but it's MN Statute 634.20 and reads

Evidence of similar conduct by the accused against the victim of domestic abuse, or against other family or household members, is admissible unless the probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issue, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence. "Similar conduct" includes, but is not limited to, evidence of domestic abuse, violation of an order for protection under section 518B.01; violation of a harassment restraining order under section 609.748; or violation of section 609.749 or 609.79, subdivision 1. "Domestic abuse" and "family or household members" have the meanings given under section 518B.01, subdivision 2.

I used it one time in a misdemeanor DV case in MN and was able to bring in 5 prior police calls with the same defendant and same victim, but only one of which was ever charged. It was a misdemeanor battery with no visible injuries and a recanting witness but the jury only deliberated 5 minutes before coming back with a guilty verdict. I really think the DV Evidence law helped the jury get the more full picture of why a victim recants, etc.

Anyway, Meghan and I were saying with the political climate as it is and everyone focusing on all the DV reports leading up to the Brookfield shooting, it may be a good time to lobby for the law. If prior DV contacts are important for police, DAs and media to be aware of, I think there's an argument juries should know about it too. Let me know if you want any more research. I did have some supporting case law I researched back in MN and can have someone send me the cases.

Thanks,
Molly



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-047677

CMH:...

eev

0558/1

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Sorry
editor
LPS-
I did not enter
-0558
so it was entered
as a
/ draft

SAD on
ref LRB-047677

1 AN ACT ...; relating to: evidence of other crimes admissible at a criminal trial proceeding
2 involving an act of domestic abuse.

admissibility of
proceedings alleging similar
evidence of prior
Analysis by the Legislative Reference Bureau

Under current law, with the exception of convictions for certain sex offenses ~~at~~ during criminal actions for sex offenses, evidence of other crimes, wrongs, or acts is not admissible at trial if the evidence is to prove the character of a person in order to show that the person acted in character. Under this bill, in criminal actions alleging a violation of domestic abuse, the following may be admitted as evidence of the person's character to show the person acted in character: 1) a conviction of a violation involving domestic abuse if the victim is the same as in the current action; 2) a conviction for stalking or harassment and the victim is the same as in the current action; or 3) a violation of a domestic abuse or harassment temporary restraining order or injunction if the person who filed the petition is the victim in the criminal action.

person committed
an act of

?
for

if
The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 904.04 (2) (b) of the statutes is renumbered 904.04 (2) (b) 1.

4 SECTION 2. 904.04 (2) (b) 2. of the statutes is created to read:

5 904.04 (2) (b) 2. In a criminal proceeding alleging a violation that the person
6 committed an act of domestic abuse, as defined in s. 968.075 (1) (a), that constitutes

1 the commission of a crime, sub. (1) and par. (a) do not prohibit admitting, as evidence
2 of the person's character in order to show that that the person acted in conformity
3 with that character, that a person was convicted of a violation involving domestic
4 abuse, as defined in s. 968.075 (1) (a), if the victim of that violation is the the same
5 as the victim in the current criminal proceeding; was convicted of a violation of s.
6 940.32, 947.012, 947.0125, or 947.13, or a comparable offense in another jurisdiction,
7 if the victim of that violation is the same as the victim in the current criminal
8 proceeding; or violated a temporary restraining order or injunction issued under s.
9 813.12 or 813.125, or a comparable temporary restraining order or injunction in
10 another jurisdiction, if the victim in the current criminal proceeding is the petitioner
11 in the temporary restraining order hearing or injunction hearing. was

(END)



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0476/2
CMH:eev:rs

Stays

0558/2

2013 BILL

NO
changes
Today
please

LPS -
please
note
the
LRB
number
to
NOT
0558/1

repeal

- 1 AN ACT *to create* 904.065 of the statutes; **relating to:** admissibility of evidence
2 of other acts of domestic abuse at a proceeding alleging an act of domestic abuse.

Analysis by the Legislative Reference Bureau

Under current law, with certain exceptions, evidence of other crimes, wrongs, or acts is not admissible at trial. Under this bill, in an action accusing an individual of an offense involving domestic abuse, evidence that the individual committed another act of domestic abuse within the past 10 years is admissible for any relevant purpose unless the evidence is excluded on grounds of prejudice, confusion, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 3 SECTION 1. 904.065 of the statutes is created to read:
4 **904.065 Evidence of previous domestic abuse acts admissible.** (1) In
5 this section:
6 (a) "Defendant" includes a respondent under s. 813.12.
7 (b) "Domestic abuse" has the definition given in s. 813.12 (1) (am).

BILL

SECTION 1

(2) (a) Subject to pars. (b) and (c), in an action in which a defendant is accused of an offense involving domestic abuse, notwithstanding s. 904.04, evidence that the defendant committed another act of domestic abuse is admissible for any relevant purpose unless it is excluded under s. 904.03.

(b) A person introducing evidence that would be inadmissible except as provided under par. (a) shall disclose the evidence, including any statement of a witness or a summary of the substance of any testimony that is expected to be offered, to the defendant in the following timeframe, unless the court allows a later date for good cause shown:

1. Except as provided in subd. 2., no later than 15 days before the action is scheduled to begin.

2. If the action is under s. 813.12, no later than 7 days before the action is scheduled to begin.

(c) Evidence that the defendant committed another act of domestic abuse is inadmissible under par. (a) if the act occurred more than 10 years before the alleged commission of the offense that is the subject of the action unless the court determines that the evidence should be admitted in the interest of justice.

(END)

To: Rep. André Jacque
From: Tony Gibart, WCADV
Re: LRB 0558/2

I have minor recommended changes to LRB 0558/2.

The definition of a defendant on page 1, line 6 should also include a respondent in an action under ss. 813.122 (child abuse), 813.123 (individual at risk), and 813.125 (harassment). These additional restraining order proceedings often involve acts of domestic abuse, and for various reasons, domestic abuse victims might seek protection under these statutes. We believe the rule of evidence created under the bill should be available to victims in those proceedings as well.

Similarly, we recommend page 2, line 12 should include reference to ss. 813.122 (child abuse), 813.123 (individual at risk), and 813.125 (harassment).



State of Wisconsin
2013 - 2014 LEGISLATURE

Tuesday please



LRB-0558/2

CMH:eev:jf

Stays

2013 BILL

Reyen cat

- 1 AN ACT *to create* 904.065 of the statutes; **relating to:** admissibility of evidence
2 of other acts of domestic abuse at a proceeding alleging an act of domestic abuse.

Analysis by the Legislative Reference Bureau

Under current law, with certain exceptions, evidence of other crimes, wrongs, or acts is not admissible at trial. Under this bill, in an action accusing an individual of an offense involving domestic abuse, evidence that the individual committed another act of domestic abuse within the past 10 years is admissible for any relevant purpose unless the evidence is excluded on grounds of prejudice, confusion, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

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7 (b) "Domestic abuse" has the definition given in s. 813.12 (1) (am).

*813.122, 813.123,
or
813.125*

BILL

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2. If the action is under s. 813.12, no later than 7 days before the action is scheduled to begin.

(c) Evidence that the defendant committed another act of domestic abuse is inadmissible under par. (a) if the act occurred more than 10 years before the alleged commission of the offense that is the subject of the action unless the court determines that the evidence should be admitted in the interest of justice.

(END)

Parisi, Lori

From: Julian, Jamie
Sent: Monday, April 08, 2013 3:03 PM
To: LRB.Legal
Subject: Draft Review: LRB -0558/3 Topic: Prior acts evidence admissible

Please Jacket LRB -0558/3 for the ASSEMBLY.